

78B-10-103 Scope.

- (1) Except as otherwise provided in Subsection (2) or (3), this chapter applies to a mediation in which:
 - (a) the mediation parties are required to mediate by statute, court, or administrative agency rule or referred to mediation by a court, administrative agency, or arbitrator;
 - (b) the mediation parties and the mediator agree to mediate in a record that demonstrates an expectation that mediation communications will be privileged against disclosure; or
 - (c) the mediation parties use as a mediator an individual who holds himself or herself out as a mediator or the mediation is provided by an entity that holds itself out as providing mediation.
- (2) The chapter does not apply to a mediation:
 - (a) relating to the establishment, negotiation, administration, or termination of a collective bargaining relationship;
 - (b) relating to a dispute that is pending under or is part of the processes established by a collective bargaining agreement, except that the chapter applies to a mediation arising out of a dispute that has been filed with an administrative agency or court;
 - (c) conducted by a judge as a part of the judge's official judicial duties; or
 - (d) conducted under the auspices of:
 - (i) a primary or secondary school if all the parties are students; or
 - (ii) a correctional institution for youths if all the parties are residents of that institution.
- (3) If the parties agree in advance in a signed record, or a record of proceeding reflects agreement by the parties, that all or part of a mediation is not privileged, the privileges under Sections 78B-10-104 through 78B-10-106 do not apply to the mediation or part agreed upon. However, Sections 78B-10-104 through 78B-10-106 apply to a mediation communication made by a person that has not received actual notice of the agreement before the communication is made.

Amended by Chapter 232, 2012 General Session